

U.S. DISTRICT COURT FOR THE
EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION

THOMAS E. WHATLEY III §
PLAINTIFF, §
§
V. § CASE NO. 4:11-CV-00493-RAS
§
CREDITWATCH SERVICES, LTD. §
DEFENDANT. §

DEFENDANT CREDITWATCH SERVICES, LTD.'S
ANSWER TO PLAINTIFF'S AMENDED COMPLAINT

COMES NOW, Creditwatch Services, Ltd. (herein after referred to as "Defendant"), and files its Answer to Plaintiff's Amended Complaint.

I.
GENERAL DENIAL

1. Defendant admits Plaintiff has filed a suit alleging violations of various statutes but denies it violated any statute.
2. Defendant admits Plaintiff seeks recovery of damages.
3. Defendant denies Paragraph 3.
4. Defendant admits jurisdiction is available for the Court under certain provisions. Defendant denies that jurisdiction is provided under 47 U.S.C. § 277 which specifically grants jurisdiction to state courts only.
5. Defendant admits Paragraph 5.
6. Defendant is without sufficient information to admit or deny Paragraph 6.
7. Defendant is without sufficient information to admit or deny Paragraph 7.
8. Defendant admits it attempted to collect a debt, but is without sufficient information to admit or deny whether the debt meets the definitions cited.
9. Defendant admits Paragraph 9.

10. Defendant admits Paragraph 10.
11. Defendant is without sufficient information to admit or deny Paragraph 11.
12. Defendant admits Paragraph 12.
13. Defendant admits Paragraph 13.
14. Defendant admits it contacted Plaintiff regarding a debt. Defendant is without sufficient information to admit it contacted a cellular telephone. Defendant denies the remainder of Paragraph 14.
15. Defendant admits it communicated with Plaintiff, but denies it made false representations.
16. Defendant admits Defendant spoke with Plaintiff but denies it made false representation.
17. Defendant admits it spoke with Plaintiff.
18. Defendant denies that a verbal cease and desist complies with federal law. Defendant is without sufficient information to admit or deny the type of phone contacted.
19. Defendant denies it made false representation to Plaintiff.
20. Defendant denies Paragraph 20 is an accurate statement of the law in Texas. There are cases in Texas stating the request must be in writing. Further federal law requires written cease and desist.
21. Defendant denies Paragraph 21.
22. Defendant denies Paragraph 22.
23. Defendant is without sufficient information to admit or deny Paragraph 23.
24. Defendant denies Paragraph 24.
25. Defendant denies Paragraph 25.
26. Defendant denies Paragraph 26.
27. Defendant repeats and realleges each and every preceding allegation.
28. Defendant denies Paragraph 28 and all subparts.
29. Defendant repeats and realleges each and every preceding allegation.

30. Defendant denies Paragraph 30 and all subparts.
31. Defendant adopts the preceding paragraphs.
32. Defendant denies Paragraph 32 is an accurate or complete statement of the law.
33. Defendant denies Paragraph 33 and all subparts.
34. Defendant repeats and realleges all preceding paragraphs.
35. Defendant denies Paragraph 35 and all subparts.
36. Paragraph 36 requires no response.

II.
AFFIRMATIVE DEFENSES

37. Plaintiff's damages, if any, are the result of actions of third parties over whom this Defendant has no control.
38. Plaintiff failed to mitigate damages, if any.
39. In the alternative, if any violation occurred, it is the result of a bona fide error.
40. Plaintiff failed to meet the condition precedent by failing to provide notice as required under the DTPA.
41. Plaintiff provided phone numbers to the original creditor which constitute express consent to contact him.

WHEREFORE PREMISSES CONSIDERED, Defendant ask that Plaintiff take nothing from this petition and that it be dismissed; and that judgment be awarded in favor of Defendant.

Respectfully submitted,

ROBBIE MALONE, PLLC

/s/Robbie Malone
ROBBIE MALONE
State Bar No. 12876450
JACOB C. BOSWELL
State Bar No. 24061269
Northpark Central, Suite 1850
8750 North Central Expressway
Dallas, Texas 75231
(214) 346-2625
(214) 346-2631 FAX
E-mail: rmalone@rmalonelaw.com

CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing document has been forwarded via ECF on this 20th day of September, 2011 to:

Dennis R. Kurz
Weisberg & Meyers, L.L.C.
Two Allen Center
1200 Smith Street, 16th Floor
Houston, Texas 77002

/s/Robbie Malone

No. 8
of 15 U.S.C. 1692a(5) and Tex. Fin. Code Ann. § 392.001(6).